



6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project – Post-2017 Resource Pool

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed marketing criteria.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), is seeking comments on proposed marketing criteria for allocating the Federal power from the Boulder Canyon Project (BCP). The Conformed Power Marketing Criteria or Regulations for the Boulder Canyon Project (2012 Conformed Criteria) published in the Federal Register on June 14, 2012, as required by the Hoover Power Allocation Act of 2011, established a resource pool (Post-2017 Resource Pool) to be allocated to new allottees and general eligibility criteria. Western is proposing for comment additional marketing criteria to be used to allocate the Post-2017 Resource Pool that will become available October 1, 2017. Once determined, these marketing criteria, in conjunction with the 2012 Conformed Criteria, will establish the framework for allocating power from the Post-2017 Resource Pool. This Federal Register notice (FRN) is not a call for applications. A call for applications from those interested in an allocation of BCP power will occur in a future notice.

DATES: Entities interested in commenting on proposed marketing criteria must submit written comments to Western's Desert Southwest Customer Service Regional Office at the address below. Western will accept written comments received on or before January 11, 2013. Western reserves the right to not consider any comments received after this date.

Western will hold three public information forums on the proposed marketing criteria. The dates for the public information forums are:

1. November 27, 2012, 1 p.m., PST, Las Vegas, Nevada.
2. November 28, 2012, 1 p.m., MST, Phoenix, Arizona.
3. November 29, 2012, 10 a.m., PST, Ontario, California.

Following the public information forums, Western will hold three public comment forums.

The dates for the public comment forums are:

1. December 18, 2012, 1 p.m., PST, Las Vegas, Nevada.
2. December 19, 2012, 10 a.m., PST, Ontario, California.
3. December 20, 2012, 10 a.m., MST, Phoenix, Arizona.

ADDRESSES: Written comments regarding these proposed marketing criteria should be sent to: Mr. Darrick Moe, Desert Southwest Regional Manager, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457. Comments may also be faxed to (602) 605-2490 or e-mailed to Post2017BCP@wapa.gov.

The public information and public comment forums will be held at: The New Las Vegas Tropicana, 3801 Las Vegas Boulevard South, Las Vegas, Nevada; Fiesta Resort Conference Center, 2100 S. Priest Drive, Tempe, Arizona; DoubleTree Ontario Airport, 222 N. Vineyard, Ontario, California.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Simonton, Public Utilities Specialist, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, telephone number (602) 605-2675, e-mail Post2017BCP@wapa.gov. All comments received in response to this FRN will be posted to Western's Web site at

<http://www.wapa.gov/dsw/pwrmtkt>.

SUPPLEMENTARY INFORMATION:

The BCP was authorized by the Boulder Canyon Project Act of 1928 (Act) (43 U.S.C. 617).

Under Section 5 of the Act, the Secretary of the Interior marketed the capacity and energy from the BCP under electric service contracts effective through May 31, 1987. In 1977 the power marketing functions of the Secretary of Interior were transferred to Western by Section 302 of the Department of Energy Organization Act (42 U.S.C. § 7152). Thereafter, on December 28, 1984, Western published the Conformed General Consolidated Criteria or Regulations for Boulder City Area Projects (1984 Conformed Criteria) (49 FR 50582) to implement applicable provisions of the Hoover Power Plant Act of 1984 (43 U.S.C. 619) for the marketing of BCP power through September 30, 2017.

On December 20, 2011, Congress enacted the Hoover Power Allocation Act of 2011 (Public Law 112-72) (HPAA), which provides direction and guidance in marketing BCP power after the existing contracts expire September 30, 2017. On June 14, 2012, Western published the 2012 Conformed Criteria (77 FR 35671) to implement applicable provisions of the HPAA for the marketing of BCP power from October 1, 2017 through September 30, 2067. The 2012 Conformed Criteria formally established a resource pool defined as “Schedule D” to be allocated to new allottees. In accordance with the HPAA, Western allocated portions of Schedule D to the Arizona Power Authority (APA) and the Colorado River Commission of Nevada (CRC), respectively, as described in the June 14, 2012, FRN. Of the remaining portions of Schedule D, Western is to allocate 11,510 kilowatts (kW) of contingent capacity and associated firm energy to new allottees within the State of California, and 69,170 kW of contingent capacity and

associated firm energy to new allottees within the Boulder City Area marketing area.

Proposed Post-2017 Resource Pool Marketing Criteria

Western proposes to apply the following general marketing criteria to applicants seeking an allocation of power from the Post-2017 Resource Pool. This includes all prescribed portions of Schedule D power to be allocated by Western as described above.

- A. Allocations of power will be made in amounts determined solely by Western in exercise of its discretion under Reclamation Law, including the HPAA.
- B. An allottee may purchase power only upon the execution of an electric service contract and satisfaction of all conditions stated within that contract.
- C. Eligible applicants, except Native American tribes, must be ready, willing, and able to receive and distribute or use power from Western. Ready, willing, and able means the eligible applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties permit the delivery of Western's power. Eligible applicants must have the necessary arrangements for transmission and/or distribution service in place by October 1, 2016.
- D. An eligible Native American applicant must be an Indian tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.
- E. In determining allocations, Western will give priority consideration in the following order to entities satisfying these marketing criteria:
 - 1. Federally recognized Native American tribes.
 - 2. Municipal corporations and political subdivisions including irrigation or other

- districts, municipalities, and other governmental organizations; that have electric utility status by April 1, 2014. “Electric utility status” means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.
3. Electric cooperatives and public utilities other than electric utilities that are recognized as utilities by their applicable legal authorities, are nonprofit in nature, have electrical facilities, and are independently governed and financed.
 4. Other eligible applicants.
- F. In determining allocations, Western will consider existing Federal power resource allocations of the applicants.
- G. Western will base allocations to Native American tribes on actual loads experienced in the most recent calendar year. Western may use estimated load values if actual load data is not available. Western will evaluate and may adjust inconsistent estimates during the allocation process. Western is available to assist tribes in developing load estimates.
- H. Western will base allocations to eligible applicants on the actual loads experienced in the most recent calendar year and will apply current marketing criteria to these loads.
- I. The minimum allocation will be 1,000 kW. Applicants will be allowed to aggregate their loads to meet minimum requirements provided Western is able to schedule power deliveries in quantities of 1,000 kW or greater to the aggregated group. Western will consider making allocations under the 1,000 kW minimum conditioned upon an applicant’s ability to aggregate to 1,000 kW or greater for scheduling purposes prior to final allocation determinations.

- J. Applicants seeking an allocation as an aggregated group must demonstrate to Western's satisfaction the existence of a contractual aggregation arrangement prior to final allocation determinations. Each member of an aggregated group must meet all eligibility requirements.
- K. Contractors must execute electric service contracts within six months of receiving a contract offer from Western, unless Western agrees otherwise in writing.
- L. If unanticipated obstacles to the delivery of electric service to a Native American tribe arise, Western retains the right to provide the economic benefit of the resource directly to the tribe.

Regulatory Procedure Requirements

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Environmental Compliance

In accordance with the DOE National Environmental Policy Act Implementing Procedures (10 CFR 1021), Western has determined that these actions fit within a class of action B4.1 Contracts, policies, and marketing and allocation plans for electric power, in Appendix B to Subpart D to Part 1021 – Categorical Exclusions Applicable to Specific Agency Actions.

Dated: October 22, 2012

Anita J. Decker
Acting Administrator

[FR Doc. 2012-26685 Filed 10/29/2012 at 8:45 am; Publication Date: 10/30/2012]